

Selected Telecommunications Tax Citations

15-53-128. Legislative findings and declaration of purpose. (1) The legislature finds that one measure of the state's economic competitiveness is the presence of an efficient and affordable telecommunications infrastructure using the latest technological advancements. □

(2) The legislature further finds that the telecommunications industry is undergoing a dramatic change that is altering the identity of its participants, the nature of services that the industry provides, and the methods used to deliver those services. □

(3) The legislature further finds that the existing method of property taxation of the telecommunications industry results in competitive inequities that hinder the investment in the state's telecommunications infrastructure. □

(4) The legislature further finds that the evolving nature of the telecommunications industry necessitates changes to the existing system of property taxation that include reducing the tax rate applied to telecommunications property and imposing a replacement tax in order to: □

(a) avoid placing telecommunications services providers at a competitive advantage or disadvantage; □

(b) provide purchasers of telecommunications services with greater choices and lower retail prices; and □

(c) preserve the revenue base of the existing property tax system for taxing jurisdictions in the state. □

(5) The legislature further finds that a reduction in property tax rates applied to telecommunications services providers should be replaced with an excise tax on the purchasers of telecommunications services. □

(6) The legislature further finds that taxes imposed on the telecommunications industry are in reality hidden taxes that are passed on to telecommunications customers in the form of higher prices and that such a policy is contrary to the principles of open government and a fully informed citizenry on the tax policies of the state. □

(7) The legislature therefore declares that there is a compelling public need to modify the existing system of property taxation of telecommunications services providers and to impose a retail telecommunications excise tax measured by the price of retail telecommunications on the purchaser to ensure competitive neutrality and constancy of revenue to taxing jurisdictions in the state of Montana. □

(8) The legislature further declares that to avoid additional competitive advantages or disadvantages, the telephone company license tax must be eliminated.

15-53-129. (Temporary) Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Call-by-call basis" means any method of charging for telecommunications services that measures the price by individual calls.

(2) (a) "Charges for mobile telecommunications services" means any charge for, or associated with, the provision of commercial mobile radio service, as defined in 47 CFR 20.3, as in effect on June 1, 1999, or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service that is billed to the customer by or for the customer's home service provider regardless of whether individual transmissions originate or terminate within the licensed service area of the home service provider.

(b) The term does not include one-way radio communications as included in 47 CFR 20.3, as in effect on June 1, 1999.

(3) (a) "Customer" or "purchaser" means, except as provided in subsection (3)(b), a person who acquires for consideration retail telecommunications services for use or consumption and not for resale.

(b) For purposes of mobile telecommunications services, the term means:

(i) the person or entity that contracts with the home service provider for mobile telecommunications services; or

(ii) if the end user of mobile telecommunications services is not the contracting party, the end user of the mobile telecommunications services, but only for the purpose of determining the place of primary use.

(c) The term does not include:

(i) a reseller of mobile telecommunications services; or

(ii) a serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area.

(4) "Home service provider" means the facilities-based carrier or reseller that the customer contracts with for the provision of mobile telecommunications services.

(5) "Mobile telecommunications services" means commercial mobile radio service, as defined in 47 CFR 20.3, as in effect on June 1, 1999.

(6) "Place of primary use" means the street address for the premises where the customer's use of telecommunications services primarily occurs, which must be the residential street address or the primary business street address of the customer. For mobile telecommunications services, the place of primary use must be within the licensed service area of the home service provider.

(7) "Postpaid calling basis" means that telecommunications services are obtained by making a payment on a call-by-call basis, either through the use of a card or payment mechanism, such as a bank card, travel card, credit card, or debit card, or by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(8) "Private communications service" means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and other associated services that are provided in connection with the use of the channel or channels.

(9) (a) "Reseller" means a provider who purchases mobile telecommunications services from another telecommunications services provider and then resells, uses as a component part of, or integrates the purchased services into a mobile telecommunications service.

(b) The term does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider's licensed service area.

(10) (a) "Retail telecommunications" means, except as provided in subsection (10)(b), the two-way transmission of voice, image, data, or other information over wire, cable, fiber optics, microwave, radio, satellite, or similar facilities that originates or terminates in this state and is charged to a customer with a Montana service address.

(b) For mobile telecommunications services, the term means the two-way transmission of voice, image, data, or other information that originates or terminates in a single state that is charged to a Montana service address.

(c) The term includes but is not limited to local exchange, long-distance, private communications, two-way paging, wireless telecommunications, and related services, regardless of whether the services are paid for on a call-by-call basis or postpaid calling basis.

(11) (a) "Sales price" means the consideration paid for the distribution, supply, furnishing, sale, transmission, or delivery of retail telecommunications services to the end-user customer.

(b) The term does not include:

(i) an amount added to the customer's bill because of a charge made pursuant to the tax imposed by this part;

(ii) charges added to a customer's bill under 10-4-201, 53-19-311, and 69-3-844;

(iii) federal excise taxes or other federally imposed charges or fees collected for and remitted to a federal government entity;

(iv) a charge for a dishonored check;

(v) a finance or credit charge, penalty or charge for delayed payment, or discount for prompt

payment;

(vi) a charge for construction or relocation of facilities;

(vii) charges for the installation, repair, inspection, or servicing of equipment and wiring located on customer premises;

(viii) bad debt;

(ix) a charge added by a hotel, motel, or similar facility for telecommunications services used in placing calls for guests;

(x) charges paid by inserting coins in coin-operated telecommunications devices; and

(xi) charges for telecommunications services that have been prepaid by a prepaid calling card that enables the origination of calls by using an access number or authorization code.

(12) (a) "Service address" means, except as provided in subsection (12)(b):

(i) the location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of the location to which the bill for the call is sent or the location from which the payment of the bill is received;

(ii) if the location in subsection (12)(a)(i) is not known, the origination point of the signal of the telecommunications service first identified by either the seller's telecommunications system or, if the system used to transport the signal is not that of the seller, in information received by the seller from its service provider; or

(iii) if the location in subsection (12)(a)(i) or (12)(a)(ii) is not known, the location of the customer's place of primary use.

(b) For mobile telecommunications services, the term means the location in Montana of the customer's place of primary use.

(13) "Serving carrier" means a facilities-based carrier providing mobile telecommunications services to a customer outside a home service provider's or reseller's licensed service area.

(14) "Telecommunications services provider" means a person providing retail telecommunications services.